

CITY OF SAN JOSÉ, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
801 North First Street, Room 400  
San José, California 95110-1795

Hearing Date/Agenda Number  
P.C. 08-13-03 C.C. 9/2/03  
Item #: 4.a.

File Number  
C03-041

Application Type  
Conforming Rezoning

Council District SNI  
3 Washington

Planning Area  
Central

Assessor's Parcel Number(s)  
264-36-124

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: Lee Butler

Location: West side of South 1st Street approximately 60 feet southeasterly of Union Street (745 South 1<sup>st</sup> Street)

Gross Acreage: 0.16

Net Acreage: 0.16

Net Density: N/A

Existing Zoning: LI Light Industrial

Existing Use: Retail Vehicle Sales

Proposed Zoning: CG Commercial General

Proposed Use: Retail Vehicle Sales

### GENERAL PLAN

Completed by: FLB

Land Use/Transportation Diagram Designation  
General Commercial

Project Conformance:  
☒ Yes ☐ No  
☐ See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

Completed by: FLB

North: Retail

LI Light Industrial

East: Industrial

LI Light Industrial

South: Retail

LI Light Industrial

West: Single Family Detached

LI Light Industrial

### ENVIRONMENTAL STATUS

Completed by: FLB

☒ Environmental Impact Report found complete (GP 2020 EIR certified  
8/16/1994, Resolution # 65459).  
☐ Negative Declaration circulated on  
☐ Negative Declaration adopted on

☐ Exempt  
☐ Environmental Review Incomplete

### FILE HISTORY

Completed by: FLB

Annexation Title: Original City

Date: March 27, 1850

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☐ Approval  
☒ Approval with Conditions  
☐ Denial  
☐ Uphold Director's Decision

Date:

Approved by:

☐ Action  
☒ Recommendation

### APPLICANT/OWNER

Ross & Carol Castro  
2294 Cottle Avenue  
San Jose, CA 95125

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**PUBLIC AGENCY COMMENTS RECEIVED**

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Completed by: FLB

**Department of Public Works**

No comments.

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**Other Departments and Agencies**

Memorandum from Strong Neighborhoods Initiative Division attached.

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**GENERAL CORRESPONDENCE**

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None received.

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**ANALYSIS AND RECOMMENDATIONS**

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**BACKGROUND**

The applicant is requesting to rezone the subject 0.16 gross-acre site from the LI Light Industrial Zoning District to the CG Commercial General Zoning District to allow commercial uses. One parcel is involved in the proposed rezoning.

Currently, the parcel is being used for retail vehicle sales. While retail vehicle sales are not a permitted use in the site's current LI Light Industrial Zoning District, a legal non-conforming letter was issued on January 28, 2000 confirming the legal non-conforming use status of the retail vehicle sales at the subject property. The applicant has submitted evidence showing that this legal non-conforming status is still valid. The applicant has not indicated any plans to expand or alter the exterior of the existing building. A land use permit and environmental review would be required for any subsequent changes to the building or site.

The parcel is roughly rectangular in shape and has approximately 55 linear feet of frontage on the west side of South First Street. The level site is surrounded by retail establishments to the north and south, by a single family detached residence to the west, and by industrial uses to the east.

**ENVIRONMENTAL REVIEW**

The environmental impacts of this project were addressed by a Final EIR entitled, "San José 2020 General Plan EIR," which was certified on August 16, 1994, by the City of San José City Council, Resolution Number 65459.

**GENERAL PLAN CONFORMANCE**

The San Jose 2020 General Plan Land Use/Transportation Diagram designation for the subject parcel is General Commercial. The proposed CG Commercial General Zoning District is consistent with this General Plan designation.

## ANALYSIS

The applicant is proposing to rezone the subject property to CG Commercial General. Staff does not support the applicant's request and recommends the property be rezoned to CP Commercial Pedestrian for reasons relating to conformance with the Strong Neighborhoods Initiative (SNI) plans, to the allowed uses in the districts, and to the development standards of each district.

### Conformance with the SNI Plans

The parcel is located within the Strong Neighborhoods Initiative Washington neighborhood area. The Top Ten Action Item No. 6 of the *Washington Neighborhood Revitalization Plan, Strong Neighborhoods Initiative Update* (approved by the Council on June 4, 2002) states that all properties along South First Street should be rezoned to CP Commercial Pedestrian to facilitate neighborhood serving businesses. Across First Street to the east, properties are located within the Spartan-Keyes Strong Neighborhoods Initiative area and within the Martha Gardens Specific Plan area. The *Spartan-Keyes Neighborhood Improvement Plan* (approved by the Council on June 18, 2002) and the *Martha Gardens Specific Plan* (set to be heard by Council during the Fall 2003 General Plan hearings) both support the *Washington Neighborhood Revitalization Plan, Strong Neighborhoods Initiative Update* by promoting land uses that contribute to a vibrant pedestrian environment and to the vitality of the neighborhood business district. The CP Commercial Pedestrian uses and development standards would be more compatible with the neighborhood than the CG Commercial General uses and development standards, as discussed below in more detail.

Two properties on the west side of South First Street between the 600 and 800 address blocks have recently undergone a rezoning this year; staff recommended and the Council adopted a CP Commercial Pedestrian Zoning District for these properties in both instances.

### Allowed Uses

Staff believes that uses of the CP Commercial Pedestrian Zoning District would be more appropriate for the neighborhood than uses of the CG Commercial General Zoning District. The existing retail vehicle sales would be a use permitted by right in the CG Commercial General Zoning District, however, it would be a Conditional Use in the CP Commercial Pedestrian Zoning District. It should be noted here that if the property were to be rezoned to CP Commercial Pedestrian, the legal non-conforming status of the retail vehicle sales use would not be affected, and that use could continue at the property as long as it is not discontinued for a period greater than 6 months.

Several uses permitted in the CG Commercial General Zoning District are not consistent with the types of businesses the community envisions (as expressed in the SNI plans) along South First Street. Uses that would not promote neighborhood serving businesses, such as drive-through uses and various transportation and utilities uses, would be Conditional Uses in the CG Commercial General Zoning District, whereas they would be prohibited in the CP Commercial Pedestrian Zoning District. Furthermore, unlike the CG Commercial General Zoning District, the CP Commercial Pedestrian Zoning District places maximum square footage restrictions on individual occupants. This encourages smaller businesses with a more neighborhood serving character and discourages large single occupants that would cater to a more regional clientele.

## Development Standards

Overall, the development standards of the CP Commercial Pedestrian Zoning District facilitate redevelopment of the property that is compatible with the surrounding uses and that promotes a neighborhood serving pedestrian oriented environment. The development standards of the CG Commercial General and CP Commercial Pedestrian Zoning Districts are summarized in the table below.

Zoning District	Front Setback*	Side Setback*	Rear Setback*	Maximum Height*	Maximum Number of Stories	Maximum Individual Occupant Square Footage
<b>CG</b>	25	0	0	65	8	None
<b>CP</b>	No minimum, 10 feet maximum	0	25	50	4	2,500/Personal service shop; 5,000/Eating, drinking or entertainment establishment; 15,000/all other uses

\* measured in feet

The existing structures on the lot would conform to the development standards of the CG Commercial General Zoning District, however, the large front setback and height requirements of this district would not promote redevelopment of the property within the community's vision for neighborhood serving pedestrian oriented retail activity at a scale compatible with surrounding residential neighborhoods.

The existing structures would not conform to the development standards for setbacks in the CP Commercial Pedestrian Zoning District. However, the standards of this district would require that new structures be developed close to the front property line where the buildings would create more of a street presence and promote pedestrian activity. Additionally, the allowable height and maximum number of stories allowed in the CP Commercial Pedestrian Zoning District would facilitate development at a scale that is more compatible with the surrounding residential neighborhoods. The minimum 25 foot rear setback of the CP Commercial Pedestrian Zoning District would provide a buffer between the single family detached residence to the west of the subject property and any new development on the site.

## **PUBLIC OUTREACH**

A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to discuss the proposal with members of the public.

## **RECOMMENDATION**

Planning staff recommends that the Planning Commission recommend to the City Council the adoption of the CP Commercial Pedestrian Zoning District for the subject property for the following reasons:

1. The CP Commercial Pedestrian Zoning District is in conformance with the General Plan Land Use/Transportation Diagram designation of General Commercial.
2. The CP Commercial Pedestrian Zoning District is in conformance with the Top Ten Item from the adopted *Washington Neighborhood Revitalization Plan, Strong Neighborhoods Initiative Update* and will facilitate neighborhood serving pedestrian oriented commercial use and development of this site that is compatible with the scale of the surrounding area.

## Attachments